

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division

CENTRIPETAL NETWORKS, INC.,

Plaintiff,

v.

Civil Action No. 2:18-cv-94

CISCO SYSTEMS, INC.

Defendant.

ORDER

Pending before the Court is Cisco System's Inc.'s Motion for Partial Stay of the Case as to U.S. Patent No. 9,917,856, Pending Resolution of *Inter Partes* Review Proceeding. ECF No. 664. For the reasons stated on the record during the January 25, 2023 status conference, Cisco's Motion is **DENIED**.

This Court will set a **four-day hearing to commence on June 22, 2023, at 9:30 a.m.** at the Walter E. Hoffman United States Courthouse, 600 Granby St., Norfolk, VA 23510. During the hearing, the parties will be permitted to present evidence as to U.S. Patent Nos. 9,917,856 ("the '856 Patent"); 9,500,176 ("the '176 Patent"), 9,686,193 ("the '193 Patent"), and 9,203,806 ("the '806 Patent") consistent with Fed. R. Civ. P. 63.¹

The parties are **DIRECTED** to meet and confer, and submit the following information by notice no later than **February 24, 2023**:


1. Rule 63 Recalled Witnesses. A list of witnesses each party seeks to recall "whose testimony is material and disputed and who is available to testify again without undue burden,"

¹ Plaintiff has stated it does not intend to continue prosecution of its claims as to U.S. Patent No. 9,137,205 ("the '205 Patent"), which went forward as part of the original trial. Transcript of Status Conference at 9:10-20, No. 2:18-cv-94 (E.D. Va. Oct. 19, 2022), ECF No. 663.

pursuant to Fed. R. Civ. P. 63. The parties should also identify witnesses, if any, whose testimony is no longer relevant or which the parties agree need not be considered by the Court. As to witnesses that the parties agree should be considered but do not need to be recalled, the parties should confirm in writing that any credibility determinations regarding such witnesses can be made using the existing trial record. If the parties disagree that a particular witness's testimony is material or disputed, or that the witness is available to testify without undue burden, the parties are directed to submit briefing of up to ten (10) pages in length addressing each of the Rule 63 requirements no later than February 24, 2023, with any responses up to seven (7) pages in length due by March 10, 2023. No replies shall be permitted.

2. Proposed Scheduling Order. A proposed case scheduling order consistent with a Rule 63 hearing to commence on June 22, 2023. If there is disagreement as to the schedule, each party may submit briefing of up to five (5) pages in length outlining their positions no later than February 24, 2023, with any responses up to three (3) pages in length due by March 10, 2023. No replies shall be permitted.

It is so ORDERED.



Elizabeth W. Hanes
United States District Judge

Norfolk, Virginia
Date: January 27, 2023